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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,263	03/31/2004	Stephen Alan Foxon	072819.0157	9837

5073 7590 04/05/2007  
BAKER BOTTS L.L.P.  
2001 ROSS AVENUE  
SUITE 600  
DALLAS, TX 75201-2980

EXAMINER
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JUSKA, CHERYL ANN

ART UNIT	PAPER NUMBER
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1771

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	04/05/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 04/05/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mike.furr@bakerbotts.com  
ptomail1@bakerbotts.com

## Office Action Summary

Application No.

10/816,263

Applicant(s)

FOXON, STEPHEN ALAN

Examiner

Cheryl Juska

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 and 25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13, 14 and 25 is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 6-12 is/are rejected.
- 7) ☒ Claim(s) 3-5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's amendment filed January 17, 2007, has been entered. Claim 1 has been amended as requested. Claims 15-24 and 26 are cancelled. Thus, the pending claims are 1-14 and 25.
2. Said amendment is sufficient to withdraw the objection to claim 1 as set forth in section 4 of the last Office Action.

### ***Claim Rejections - 35 USC § 102***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 1, 6-9, 11, and 12 stand rejected under 35 U.S.C. 102(b) as being anticipated by EP 174 755 issued to Dury as set forth in section 6 of the last Office Action (10/17/06).

Applicant has not amended the claims to overcome the prior art, but merely traverses the rejection on the grounds that "none of Figures 1-5 of the Dury patent show a four layer surface as provided by the claimed invention" (Amendment, page 6, 3<sup>rd</sup> paragraph). The examiner respectfully disagrees. Figure 3 of Dury shows a base 30 (e.g., sand) layered with (a) wadding 31 and infill 32 and (b) a conventional artificial turf 33. Layer (a) of wadding and infill is analogous to Figure 1 (Dury, page 6, line 7) and comprises the open layer of vertical fibers 4 and the smooth base of horizontal fibers 3 with infill particles 32. Hence, layer (a) is equivalent to applicant's claimed "at least one random pile layer comprising a compact resin loaded fiber

Art Unit: 1771

stratum.” Layer (b) of the conventional artificial turf is equivalent to applicant’s claimed surface carpet layer and resin impregnated textile layer. While Figure 3 does not clearly label said resin impregnated textile layer, said Figure does clearly show a backing layer (i.e., dark line) for the pile of the artificial turf. Conventional artificial turfs inherently include pile fibers with a resin impregnated textile layer (i.e., tufted primary backing with an adhesive backcoat thereon to bind the tufts). Therefore, Figure 3 clearly shows the first three features of applicant’s claim.

Additionally, applicant’s “at least one layer of stratified fibrous material” is met by the teaching of a water-impermeable membrane of a nonwoven fabric underlying the random pile layer (Figure 5 and page 6, line 34-page 7, line 1). Note the reference need not show all features in a single drawing to anticipate the claims.

### ***Claim Rejections - 35 USC § 103***

5. Claims 2 and 10 stand rejected under 35 U.S.C. 103(a) as being unpatentable over the cited Dury reference as set forth in section 8 of the last Office Action.

Applicant has presented no new arguments with respect to the 103 rejection. As such, claims 2 and 10 stand rejected.

### ***Allowable Subject Matter***

6. Claims 13, 14, and 25 stand allowed and claims 3-5 stand objected to as being dependent upon a rejected base claim, as set forth in sections 9-12 of the last Office Action.

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

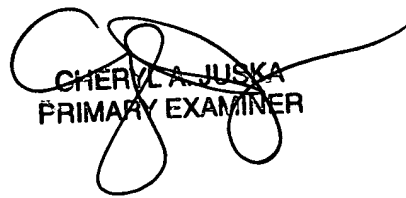
8. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl Juska whose telephone number is 571-272-1477. The examiner can normally be reached on Monday-Friday 10am-6pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached at 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

Art Unit: 1771

system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



CHERYL A. JUSKA  
PRIMARY EXAMINER

cj  
March 25, 2007